

by Amendment No. 4 sponsored by Delegate Scanlan.

Do you see any conflict between the fact that the constitution has specifically rejected any suspension of law and this provision which is now being proposed?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: No, I do not, and I say that the Committee took this action without respect to what the Committee of the Whole did on eliminating R&P-2, section 4.

THE CHAIRMAN: Delegate Willoner.

DELEGATE WILLONER: Mr. Chairman, it was my understanding at the time that this provision, section 9 of R&P-1, was discussed, that the suspension of the constitution went to the suspension not only of personal rights but it went to the suspension of the constitution as a whole. In discussing this with you I thought we arrived at the conclusion that this was inconsistent with it, but it was an appropriate limitation, or I should say exception, to the suspension rule.

The colloquy between you and the Chairman of the Committee of the Whole indicated that you feel that the provisions of section 9 only applies to personal rights.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: I was merely saying by way of example that we do not intend that it should apply to the suspension of any of the rights guaranteed under the personal rights section. We tried to limit this just to two areas, the filling of offices and the operation of government, continuity in both.

THE CHAIRMAN: Delegate Willoner.

DELEGATE WILLONER: I understand that, but you understand that this provision and the provisions of this constitution, with the exception of your exception, is to apply to the whole constitution.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: I understand that, yes.

THE CHAIRMAN: Delegate Willoner, you and Chairman Gallagher understand, but the Chairman of the Committee of the Whole did not. Would you state that again?

DELEGATE WILLONER: That the second phrase of section 9 of R&P-1 and the provisions of this constitution shall not be suspended, applies to the whole constitution

with the exception of the provision that is under discussion now.

THE CHAIRMAN: I understand, thank you.

Are there any further questions? The Chair hears none.

Delegate Gallagher, will you proceed to consideration of section 3.17 (A) (b)?

DELEGATE GALLAGHER: I am going to apologize in advance for the technical nature of the discussion of 3.17 (A) (b) on corporate charters.

For purposes of identification, I would like to call this the Baltimore and Ohio Railroad section. However, by that I do not mean to say that it applies only to the Baltimore and Ohio Railroad, but then again I cannot say that it applies to anybody else as well.

This particular section was reluctantly, and I stress the word "reluctantly", included by the Committee on the Legislative Branch because it is by no means beautiful, nor does it possess the virtues of clarity or style, and at this point I must earnestly beg the Committee on Style and Drafting not to change a word because we are keeping it not only for its historical value, but also for its legal impact, whatever it may be.

Now, we were ill-disposed to including it, but we were persuaded upon further study that we could not take the chance of leaving it out, and if you will permit me the liberty of a slight historical excursion, I would like to tell you something about the Baltimore and Ohio Railroad and like corporations.

In 1826, the Maryland General Assembly passed a charter creating the Baltimore and Ohio Railroad. It anticipated in that charter that the State of Maryland and the City of Baltimore would subscribe at least to half of the stock which would be available.

As a result of that, section 18 of the charter conferred what amounted to an exemption from taxation upon the Baltimore and Ohio Railroad.

Now, under the decisions of the Supreme Court, a charter passed by a state conferred upon a corporate body is considered to be a contract between the two and is subject to all the protections of a contract, so that consequently, once the charter has been conferred by the General Assembly, the State could not alter or repeal it, and